

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAMES EDWARD SCOTT,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No. 3:24-cv-00018-MMD-CLB

ORDER

State prisoner James Scott brings this civil-rights action contending that his rights were violated while he was incarcerated at Northern Nevada Correctional Center (“NNCC”) when prison staff refused to transport him to dialysis appointments unless he wore an NNCC-issued jumpsuit. In screening Scott’s Amended Complaint (ECF No. 17), the Court allowed claims under the Eighth Amendment, the Americans with Disabilities Act (“ADA”), and the Rehabilitation Act (“RA”) to proceed, and it dismissed claims under the First and Fourteenth Amendments with leave to amend by October 11, 2024, if Scott chose to do so. (ECF No. 16.) Before that deadline expired, Scott filed a motion for leave to file an oversized amended complaint followed by a First Amended Complaint (“FAC”) that exceeds the 30-page limit for such pleadings by 26 pages. (ECF Nos. 18, 19.) Scott argues that he needs excess pages to plausibly allege that 112 individuals and entities are liable for his claims and expand the date of violations to August 13, 2024. (ECF No. 18.)¹

Having reviewed the FAC, the Court finds that Scott does not require excess pages to plead his claims. The Court granted Scott leave to amend to attempt to replead his

¹The Amended Complaint was filed on September 11, 2024, and concerns violations that allegedly happened from January 3 to 20, 2024. (ECF No. 17.)

1 First Amendment retaliation and Fourteenth Amendment equal-protection claims. The
2 Court did not grant Scott leave to expand the scope of his Eighth Amendment medical-
3 indifference or disability-discrimination claims. Nor did it grant Scott leave to add new
4 claims. But many pages of the FAC are devoted to adding new defendants to existing
5 claims, new claims altogether, or expanding the temporal scope of existing claims. These
6 defects are made worse by Scott's failure to plead facts showing how each defendant
7 personally participated in the alleged constitutional violations. Instead, Scott repeatedly
8 offers only general and vague conclusions that all 112 proposed defendants knew about
9 his medical needs and required him to wear the jumpsuit to his dialysis appointments, or
10 didn't intervene to prevent staff from doing so, or did not provide his recently prescribed
11 anti-itch medication. And it is difficult to tell what claims Scott is trying to bring because
12 the FAC consists of 18 pages listing the parties followed by 38 pages of "facts" without
13 any clear claim for relief stated.

14 In sum, the FAC grossly exceeds the scope of leave to amend that the Court
15 granted, does not clearly attempt to replead claims for which Scott was granted leave to
16 amend, does not contain facts sufficient to show that most of the 112 proposed
17 defendants are responsible for the medical-custody matter at issue in the operative
18 pleading, and does not—as it must—contain "a short and plain statement of the claim[s]
19 showing that [Scott] is entitled to relief[.]" Fed. R. Civ. P. 8(a)(2). So the Court denies
20 Scott's motion for leave to file an oversized amended complaint, strikes the FAC, and
21 directs this action to proceed as stated in the screening order. If Scott wishes to file an
22 amended or supplemental pleading, then he may move for leave to do so after the Court
23 enters a scheduling order in this action. Finally, based on the financial information
24 provided, the Court finds that Scott is unable to prepay the filing fee in this action.

25 It is therefore ordered that Plaintiff James Scott's motion for leave to file an
26 oversized amended complaint (ECF No. 18) is denied.

27 It is further ordered that the Amended Complaint (ECF No. 17) is Scott's operative
28 complaint.

1 It is further ordered that, pursuant to the Court's screening order (ECF No. 16), this
2 action will proceed on only (1) the Eighth Amendment medical-indifference claim about
3 the need for hemodialysis against John Henley, Robert Hartman, Chris Sawin, Brendel,
4 and Robert Ashcraft; and (2) the ADA and RA claims about disability discrimination
5 against the State of Nevada and the Nevada Department of Corrections and John Henley,
6 Robert Hartman, Chris Sawin, Brendel, and Robert Ashcraft only in their official
7 capacities.

8 It is further ordered that all other Defendants are dismissed without prejudice from
9 this action.

10 It is further ordered that Scott's application to proceed *in forma pauperis* (ECF
11 Nos. 8, 10) is granted. Scott will not be required to pay an initial installment of the filing
12 fee. And he is permitted to maintain this action to conclusion without the necessity of
13 prepayment of any additional fees or costs or the giving of security therefor. But in the
14 event that this action is dismissed, the full filing fee must still be paid under 28 U.S.C.
15 § 1915(b)(2).

16 It is further ordered that the Nevada Department of Corrections will forward
17 payments from the account of **JAMES SCOTT, #1207166** to the Clerk of the United
18 States District Court, District of Nevada, 20% of the preceding month's deposits (in
19 months that the account exceeds \$10) until the full \$350 filing fee has been paid for this
20 action.

21 It is further ordered that service must be perfected within 90 days from the date of
22 this order under Federal Rule of Civil Procedure 4(m).

23 It is further ordered that, subject to the findings of the screening order (ECF
24 No. 16), within 21 days of the date of entry of this order, the Attorney General's Office will
25 file a notice advising the Court and Scott of: (a) the names of the defendants for whom it
26 accepts service; (b) the names of the defendants for whom it does not accept service;
27 and (c) the names of the defendants for whom it is filing the last-known-address
28 information under seal. As to any of the named defendants for whom the Attorney

1 General's Office cannot accept service, the Office will file, under seal, but will not serve
2 the inmate plaintiff the last known address(es) of those defendant(s) for whom it has such
3 information. If the last known address of the defendant(s) is a post office box, the Attorney
4 General's Office will attempt to obtain and provide the last known physical address(es).

5 It is further ordered that if service cannot be accepted for any of the named
6 defendant(s), Scott will file a motion identifying the unserved defendant(s), requesting
7 issuance of a summons, and specifying a full name and address for the defendant(s). For
8 the defendant(s) as to which the Attorney General has not provided last-known-address
9 information, Scott will provide the full name and address for the defendant(s).

10 It is further ordered that if the Attorney General accepts service of process for any
11 named defendant(s), such defendant(s) must file and serve an answer or other response
12 to the Amended Complaint (ECF No. 17) within 60 days from the date of this order.

13 It is further ordered that Scott will serve upon defendant(s) or, if an appearance
14 has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or
15 other document submitted for consideration by the Court. If Scott electronically files a
16 document with the Court's electronic-filing system, no certificate of service is required.
17 See Fed. R. Civ. P. 5(d)(1)(B); Nev. LR IC 4-1(b); LR 5-1. But if Scott mails the document
18 to the Court, he will include with it a certificate stating the date that a true and correct copy
19 of the document was mailed to the defendants or counsel for the defendants. If counsel
20 has entered a notice of appearance, Scott will direct service to the individual attorney
21 named in the notice of appearance, at the physical or electronic address stated therein.
22 The Court may disregard any document received by a district judge or magistrate judge
23 that has not been filed with the Clerk, and any document received by a district judge,
24 magistrate judge, or the Clerk that fails to include a certificate showing proper service
25 when required.

26 It is further ordered that the Clerk of the Court will: (1) send a copy of this order to
27 the Finance Division of the Clerk's Office and the attention of **Chief of Inmate Services**
28 **for the Nevada Department of Corrections** at formapauperis@doc.nv.gov;

1 (2) electronically serve a copy of this order and a copy of the Amended Complaint (ECF
2 No. 17) on the Office of the Attorney General of the State of Nevada by adding the
3 Attorney General of the State of Nevada to the docket sheet (this does not indicate
4 acceptance of service); and (3) strike the First Amended Complaint (ECF No. 19).

5 DATED THIS 18th Day of October 2024.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE